



IN REPLY REFER TO:
CMS-AP00-03638

HONOLULU AUTHORITY for RAPID TRANSPORTATION

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EXECUTIVE DIRECTOR AND CEO

VIA ELECTRONIC MAIL

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October 31, 2019

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Dear Mr. Robinson:

In regards to your letter received September 23, 2019, and the PMOC Special Report, Review of Uniform Relocation Assistance Act Compliance, please find the enclosed Relocation Services Corrective Action Plan for the Honolulu Authority for Rapid Transportation ("HART").

HART appreciates the guidance the Federal Transit Administration has provided regarding the relocation files. HART is determined to do what it can to bring the non-compliant files into compliance and certify that any relocated parties are provided with their entitlements under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended.

Very truly yours,

Andrew S. Robbins
Executive Director and CEO

Enclosure

cc: Ray Tellis, FTA
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Honolulu Authority for Rapid Transportation (HART)

Relocation Services Corrective Action Plan

Prepared For:

Federal Transit Administration

Honolulu Rail Transit Project
City and County of Honolulu
Honolulu Authority for Rapid Transportation (HART) Honolulu, HI

Submitted October 31, 2019

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Honolulu Authority for Rapid Transportation (HART)

Relocation Services Corrective Action Plan

1 Background

1.1 Project Purpose

The purpose of the Honolulu Rail Transit Project (“Project”) is to improve mobility within the highly congested east-west corridor between Kapolei and the Ala Moana Shopping Center. The Project will provide additional public transportation services in the corridor that will be faster and more reliable than services currently operating in mixed-flow traffic. The Project will also provide an alternative to private automobile travel, improve linkages between Kapolei, Downtown Honolulu, and potential future spurs to UH Manoa, Waikiki, and other destinations. In conjunction with other improvements included in the Oahu Regional Transportation Plan, the Project will mitigate anticipated traffic congestion and increase capacity in the corridor. The Project will also support the Oahu General Plan and Oahu Regional Transportation Plan’s goals, by serving and accommodating areas designated for urban growth. The Project is comprised of approximately 20 miles of guideway and includes 21 stations. (Source: Honolulu Authority for Rapid Transportation)

1.2 Grant History

FTA approved the request by the City and County of Honolulu (the City) to advance the project into Preliminary Engineering (PE) on October 16, 2009, Final Design (FD) on December 29, 2011, and Full Funding Grant Agreement (FFGA) on December 19, 2012. (Source: PMOC Special Report, July 30, 2019, page 1. A copy of this report can be found in Appendix A of this Relocation Services Corrective Action Plan.)

1.3 URA Compliance

In February 2018, HART notified FTA of certain areas of non-compliance with the relocation assistance requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (the Uniform Act or URA). HART discovered the non-compliance through an assessment by a consultant familiar with the relocation assistance requirements of the URA. This assessment indicated that non-compliance with the URA requirements was widespread throughout the project. Issues included overpayments to displaced persons, lack of adequate advisory services and absence of documentation relative to relocation advisory services. The overpayments exceeded amounts authorized under the URA. The negative effects of HART’s noncompliance were observed across several aspects of the relocation program. Later in 2019, the Project Management Oversight Contractor for the Project, Hill International, Inc. (PMOC) conducted an assessment of 100 of HART’s relocation assistance files to evaluate their

URA compliance. (PMOC Special Report, July 30, 2019, page 1, Appendix A)

1.4 PMOC Report Findings

The PMOC found that of the 100 relocation assistance files reviewed, 6 % were in compliance with the URA; 19% were not in compliance but could be brought into compliance with corrective actions; 31% were not in compliance and could not be brought into compliance, but likely did not have a negative impact on the displaced person; and that 44% were not in compliance and could not be brought into compliance and likely had a negative impact on the displaced person. (PMOC Special Report, July 30, 2019, page 12, Appendix A)

1.5 FTA Actions

On September 23, 2019 Bruce Robinson, Acting Associate Administrator for Program Management for FTA, sent a letter to Andrew Robbins, HART's Chief Executive Officer concerning the PMOC Report's findings. The letter stated that based upon HART's 2018 disclosures and the PMOC Report's conclusions, FTA determined that HART had not complied with relocation program requirements under the URA and that persons displaced by the Project had not received the proper services nor payments. FTA also pointed out that its review disclosed that certain relocation payments exceeded URA guidelines and were not properly documented. Furthermore, FTA stated that HART does not have adequate staff to support URA compliance needs.

Consequently, FTA will not allow Federal participation in any past, current, or future costs associated with HART's relocation program. FTA went on to issue specific corrective actions to HART. FTA directed HART to develop and prepare a plan to execute these corrective actions within its relocation program consistent with its directives and the findings of the PMOC Report. Specific details concerning FTA's corrective actions can be found in FTA's letter, which is included in Appendix B of this Relocation Services Corrective Action Plan.

2 Purpose and Scope of Relocation Services Corrective Action Plan

In October 2019, HDR was tasked to prepare a Relocation Services Corrective Action Plan (the Plan) to address the corrective actions delineated in FTA's letter and the PMOC report dated July 30, 2019.

Throughout the week of October 21, 2019 HDR personnel conducted an on-site visit. These personnel requested documents, files and access to HART management and staff in order to prepare the procedures in this Plan. HART granted these requests.

The scope of this Plan will include process improvements and procedures for executing an overall action plan. The Plan will address each directive issued by FTA and provide a practical, URA-compliant strategy to achieve resolution of the issues as discussed in the PMOC Report. This Plan will also detail how HART will address the PMOC's findings of noncompliance that had negative

impacts on displaced persons. Furthermore, the Plan's strategies will include "Best Practices" that can be applied to HART's pending relocations and its relocation program in general. In this way, the Plan will focus on the two most important areas for improvement as indicated in the PMOC Report.

These "Best Practices" include:

- Following organized, detailed, written procedures that are available to all staff and consultants and are well maintained;
- Tracking revisions to these procedures, if any;
- Reviewing the procedures to ensure compliance with the URA;
- Develop a clear staff organization with a concise delineation of responsibilities;
- Implementing strict records keeping policies;
- Updating communications logs daily;
- Instituting multiple quality checkpoints;
- Adhering to workable schedule. (A draft schedule for addressing FTA's corrective actions is included in section 4.16 of this Plan.)

These "Best Practices" and how they will be implemented are discussed throughout the Plan.

3 Summary of FTA- Required Corrective Actions

This discussion of corrective actions will detail the requirements set forth by FTA in the same sequence as they were laid out in page two of its letter.

3.1 Accounting of HART's Reimbursement of FTA/Use of Local Funds

FTA's letter indicated that HART's February, 2018 disclosure included the proposition that HART made reimbursement to FTA for all costs related to its relocation assistance program. FTA also stated that HART's disclosure letter indicated that HART would only use local funds for relocations in progress or in the future. FTA requested a full accounting from HART demonstrating how HART determined and reimbursed FTA for all Federal funds related to its Relocation Program. In addition, FTA required HART to certify that it will fully comply with the URA for current and future relocations, regardless of the funding source.

3.2 Use of Qualified, Experienced Personnel for File Assessment

FTA requires the use of qualified, experienced personnel to organize, document and assess all existing relocation case files and to review, itemize, and categorize all payments made to each displaced person.

3.3 Communication with Each Displaced Person

FTA requires HART to use qualified, experienced personnel to personally meet with each displaced person to assess the level of services provided and payments made to that person. FTA will supply a survey form for each displaced person to complete.

3.4 Reconciliation of Information Gathered in Meetings with Current Files

FTA requires HART to use qualified, experienced personnel to compare the information gathered in the personal meetings with displaced persons to the existing file information. Discrepancies, if any, will be noted and individual corrective action plans unique to each file will be created. The individual corrective action plans (ICAP) will be subject to FTA approval before implementation.

3.5 Notification of Individual Corrective Action Plans (ICAP)

All displaced persons shall receive written notification of and a copy of HART's FTA-approved ICAP.

3.6 Consideration of Appeals

HART will allow and consider relocation assistance appeals under the URA guidelines. These appeals will include any items the displaced person believes that he or she was eligible for and denied or any items that he or she believes were paid in the wrong amount by HART.

3.7 Record Keeping

HART will document all contacts and activities related to the ICAPs and the relocation services in general as per the record keeping requirements of the URA and 49 CFR 24.9.

3.8 Correction of Factual Misstatements in PMOC Report

FTA requires that HART provide any corrections to factual misstatements in the PMOC Report dated July, 30, 2019.

4 Strategic Corrective Action Plan Execution

This section of our Plan will provide specific strategies to address each of the eight FTA corrective actions in the sequence laid out above.

4.1 Accounting of HART's Reimbursement of FTA/Use of Local Funds

This Plan does not include FTA's requested reimbursement documentation. HART has advised that FTA will be provided the accounting documentation requested outside of this corrective

plan. However, HART will certify that it will comply with the URA for current and future relocation programs regardless of the funding source.

4.2 Use of Qualified, Experienced Personnel for File Assessment

FTA has found that HART does not have adequate, qualified staffing to prepare and execute the corrective actions. HART will select an experienced consultant to manage and deliver the corrective action plan.

The management of the Project personnel and the team structure used for addressing the corrective action items will be discussed in section 4.5.

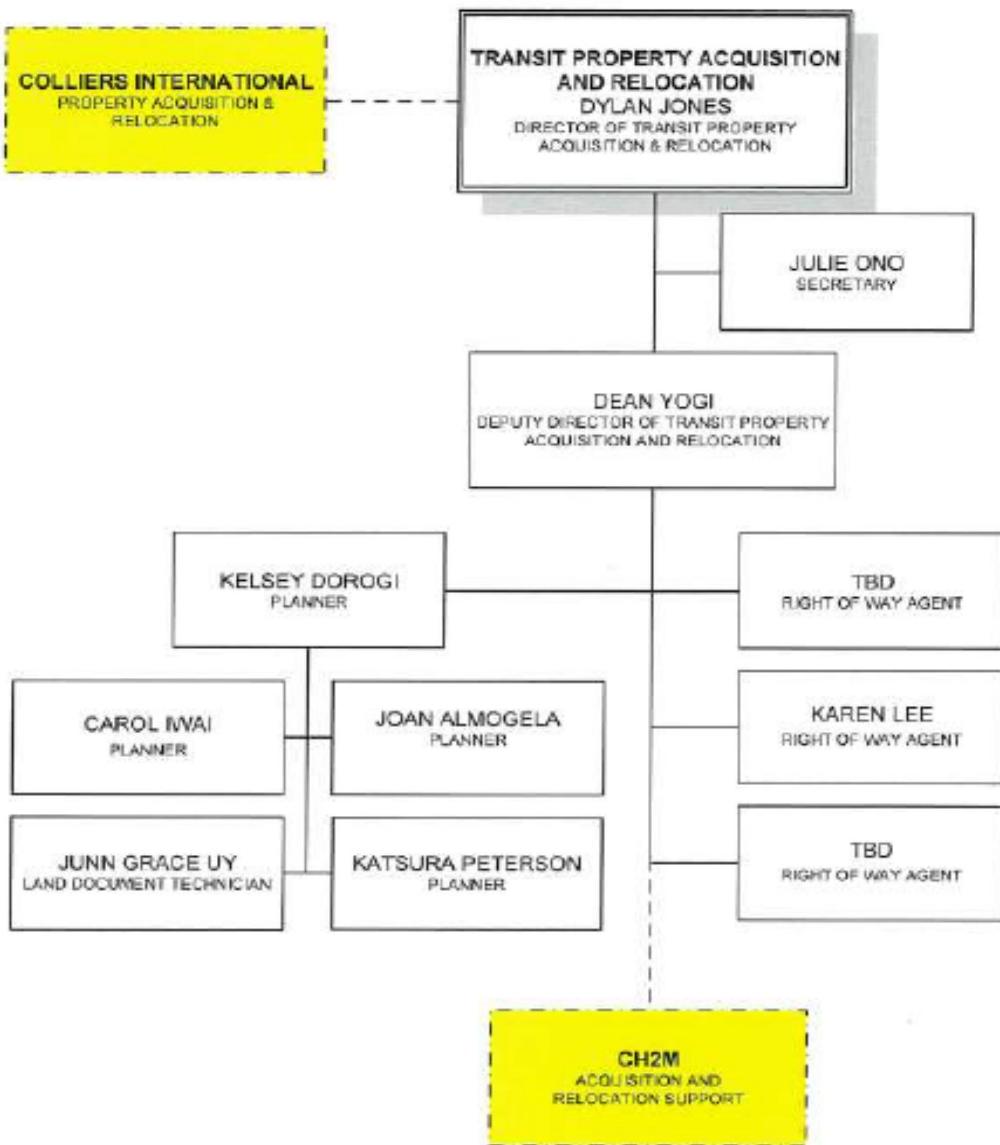
4.3 Current HART Transit Property Acquisition and Relocation Department Structure

The current structure of HART's Transit Property Acquisition and Relocation Department is depicted in Figure 4.3, below. According to HART, its current real estate services consultant is a sub-consultant to Colliers International.

Using its current structure, HART staff will work with the selected consultant personnel executing FTA's corrective action directives. HART staff will facilitate payment processing, administrative services, information sharing and other tasks. In addition, pursuant to previous discussions with FTA, HART will hire an additional staff member who will act as a HART's QA/QC Liaison. The Liaison's role will be discussed in section 4.5 along with the roles of the selected consultant personnel.

Figure 4.3 Current HART Organizational Chart

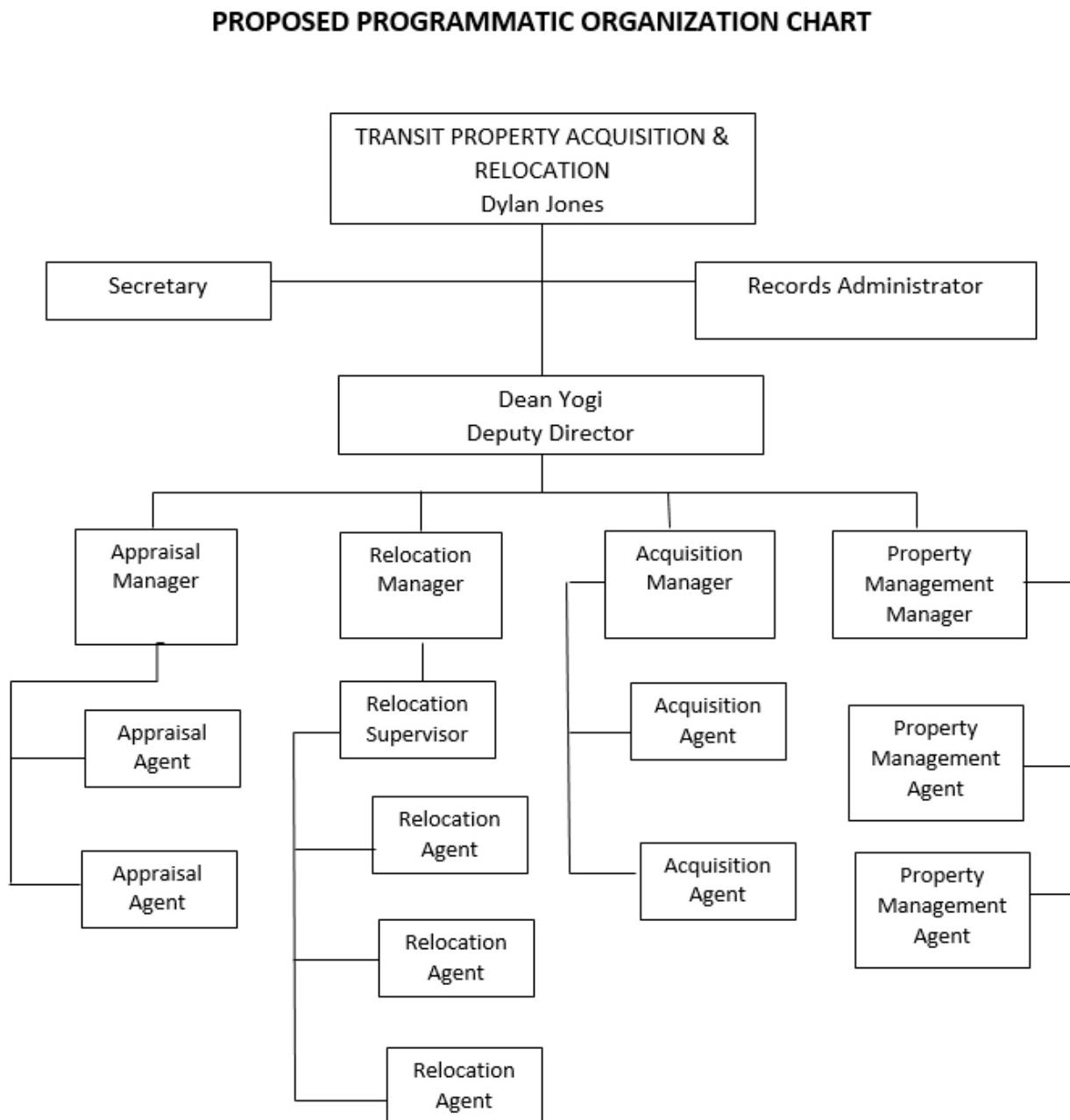
HONOLULU AUTHORITY FOR RAPID TRANSPORTATION May 20, 2019



4.4 Proposed Programmatic Organization Chart

In addition to the current HART Real Estate Organization chart, this Plan includes a proposed HART Organization Chart. The proposed chart depicts those positions that are recommended for process improvements for the overall Right of Way program as requested by the PMOC Report. This organization chart would be applicable for HART's ongoing program. According to HART, it is in the process of augmenting its staff.

Figure 4.4 Proposed Programmatic Org Chart

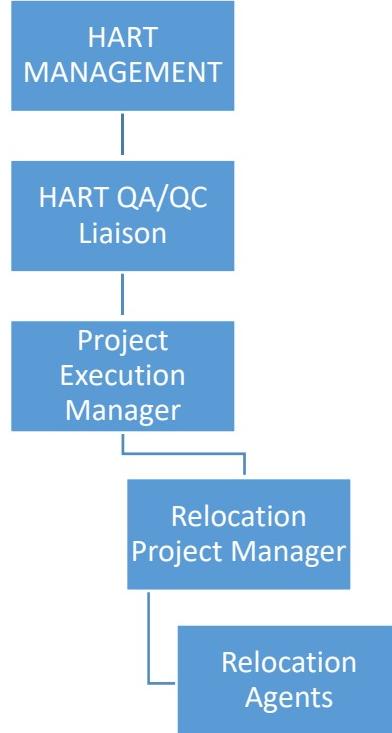


4.5 Relocation Services Corrective Action Plan Team Structure

Prior to beginning any corrective action work, HART will adopt a plan execution team structure. The team structure for persons executing this Plan will be a subset of HART's current real estate structure. All positions in the team structure will be consultants except those designated as belonging to HART.

The essential elements of this structure will include the following. HART's selected consulting firm will choose one individual possessing the requisite experience and qualifications to be designated the Project Execution Manager (PEM) and will be the representative ultimately responsible for managing the consultant tasks along with the Relocation Project Manager (RPM). Also, at a minimum, four senior relocation agents will perform the day to day tasks necessary to accomplish the corrective actions. The team structure for corrective actions is depicted below.

Figure 4.5 Corrective Action Plan Team Structure



4.5.1 HART QA/QC Liaison

The HART QA/QC Liaison will be very qualified and experienced and will review all individual corrective action plans approved by the PEM. Once the Liaison is satisfied with the corrective action plans, he or she will recommend to HART management that the plans be sent to FTA for final approval. The Liaison will make any requested FTA revisions to individual corrective action plans and send them back to HART management for re-transmittal to FTA. The Liaison will also sign off on and process payment packages submitted and approved by the consultant PEM. The Liaison will track the progress of the payment packages and advise the Relocation Project

Manager when to expect benefit payments. The Liaison will ensure that consultant staff receives any necessary support from HART management and staff. He or she will also be responsible for documenting all procedures and tracking any changes to procedures and/or standard forms. The Liaison will take delivery of closed out files from the Project Execution Manager and arrange for final file storage. The Liaison will also bring any suggestions for improved processes and procedures to the attention of HART management for potential adoption. The Liaison and HART Management will approve the Quality Plan developed by the PEM.

4.5.2 *Project Execution Manager*

The PEM will be the selected consultant employee responsible for assisting HART to accomplish FTA's corrective action directives and will be responsible for all aspects of tasks associated with the execution the ICAPs. This individual will work with the Relocation Project Manager to accomplish Quality Assurance measures on the project and develop the corrective action QA/QC Plan. The QA/QC Plan will discuss the standard operating procedures that will govern all corrective action tasks. The QA/QC Plan will describe the approved procedures, forms and processes for carrying out the individual corrective action plans. The PEM will conduct a "spot check" of each relocation file's compliance with adopted procedures at least once a month. A standardized form with comments or requested remedial actions, if any, will be developed and provided to relocation agents monthly. The individual relocation agent will make any corrections and return the file to the RPM for action or discussion with the PEM. The PEM will collaborate with the RPM on final approval to all ICAPs. The PEM will also provide bi-weekly progress reports to HART which will include:

- Review and tracking of corrective actions
- Development and approval of ICAPs by parcel
- Number of contacts per displacee
- Number of claims per displacee
- Records and file status
- Payment re-calculations
- Claims / Payments
- Problematic displacements
- Relocation Appeals
- Corrected Parcels
- Identification of files transmitted to the Liaison

Both the Liaison and PEM will follow a consistent record keeping policy that will ensure easy access to and retrieval of the files by appropriate personnel.

4.5.3 *Relocation Project Manager*

HART understands that the position requires an individual with a minimum of ten to twelve years of progressive experience managing or directing relocation projects and programs. This person must be well versed in the requirements of the URA, be able to provide interpretation of such,

and possess experience and knowledge of the processes and requirements for a residential, non-residential and personal property displacement. The individual must be able to substantiate experience and knowledge as it pertains to the URA and the relocation process. The preferred individual will possess technical as well as practical experience and knowledge and have a precise understanding of the relocation process. The ideal candidate for this position will have managed numerous relocation programs or projects, preferably for a government agency. He or she will possess training through FTA or FHWA relative to Right of Way and Relocation, and it is recommended that this individual possess the International Right of Way Association RW-RAC or SR/WA certification. This individual should also have an understanding of all Right of Way processes and the correlations between each discipline. This individual must possess the skillset to provide direction in the following areas:

- Benefit Determination
- Advisory Services
- Appraisal review (relative to Relocation)
- Benefit Calculation
- Eligibility Determination
- Relocation QA/QC
- Policy and Appeals
- Claim Approval - Move Cost
- Claim Approval - Price Differential Additive
- Claim Approval – Incidental Cost
- Claim Approval - Rent Supplement
- Vendor Approval/Selection
- Notice Delivery
- Relocation Advisory Services
- Relocation File Maintenance

This position will manage the day to day execution of the individual corrective action plans (ICAPs), provide staff direction to agents as well as communicate with the PEM and HART Management. The RPM will be responsible for the execution of the compliance plan and will develop and submit a written timetable and comprehensive work plan to HART management for accomplishing the corrective actions prior to work task commencement. This individual will:

- Identify and locate displacees associated with the project
- Create and maintain a database of each displacement
- Develop assessments for each relocation parcel
- Provide progress reports every two weeks to or as required
- Manage the workflow of relocation agents
- Ensure records and files are created and continuously updated
- Conduct monthly staff meetings
- Review and approve all initial file compliance assessments

- Assist agents with preparing the ICAPs
- The RPM will also be responsible for coordinating with HART management on all relocation appeals
- Assist in the preparation of a Final Corrective Action Report detailing all progress made by September 2020
- Develop QA Checklist for compliance measures (maintained in each file)

HART will ensure that each corrective action plan is reviewed and approved by the RPM and the PEM. If these reviews indicate any long-lead or complex relocation issues, the RPM and PEM will work collaboratively to reach a resolution.

Relocation claim packages will be reviewed by the RPM and will include the ICAP. The payment package will be transmitted to and approved by the PEM and sent to the HART Liaison for final approval and processing.

In addition, the RPM will ensure that files will not be closed without a QA/QC check. All files will be accessible to FTA throughout the corrective action period.

4.5.4 *Relocation Agents*

HART will ensure that those agents assigned to the relocation effort for this project possess a minimum of six years of practical experience at a senior level. Practical experience is described as having successfully relocated non-complex and complex non-residential parcels as well as residential owners and tenants. These individuals should be able to compute Replacement Housing Payments and possess experience doing such. HART understands that the senior agent positions require staff that understand the compliance measures of the URA and have worked within the URA guidelines. These individuals must be well versed in the requirements of the URA, be able to discuss the URA with displacees, and possess experience and knowledge of the processes and requirements for a residential, non-residential and personal property displacement. The preferred individuals will possess technical as well as practical experience and knowledge and have an understanding of the relocation process. Individuals assigned as senior agents should have a working knowledge of the relocation process as it commences during the Needs Assessment phase throughout file retirement. Senior agents should be competent in the following:

- Advisory Services
- Claim Explanation
- Preparation of various non-residential claim types, including but not limited to:
 - Substitute Personal Property
 - Direct Loss of Tangible Personal Property
- Fixed Payment
- RHP delivery
- RHP Preparation
- File Documentation

- **Business Moves –**
 - Development of Scope of Services
 - Development of Specifications
 - Securing Move Estimates

These individuals will prepare and carry out the ICAPs under the management of the RPM. One of the relocation agent's first tasks will be to review the existing files assigned to him or her. The relocation agent will note the types and amounts of benefits paid to displaced persons along with the information contained in the existing relocation survey. After this review, the relocation agent will use the existing contact information to attempt to reach the displaced person in order to set up an in-person appointment.

At this appointment, the relocation agent and the displaced person will complete the survey form supplied by FTA. The displacee will be advised that the survey will be used to develop a compliance plan to ensure that the displaced person received all the relocation entitlements and advisory services required under the URA. The displacee will be assured that they will receive notification regarding their individual findings as well as a copy of the ICAP. The displacee will also be advised of their right to appeal pursuant to URA requirements. Agents will follow "Best Practices" by contemporaneously updating their relocation diaries after each meeting and adding any records or documents supplied by the displaced person to their files.

The specific procedures for setting up the meetings with displaced persons and preparing the individual corrective actions plans are discussed in sections 4.9 and 4.10.

4.6 Summary of Duties by Position

The following diagram summarizes the key duties of each team member:

Position	Summary of Responsibilities
HART Management	<ul style="list-style-type: none">• Primary FTA contact• Final approval of ICAPs• Transmits ICAPs to FTA• Final approval of ICAP procedures• Approves Project Work Plan and Schedule
HART QA/QC Liaison	<ul style="list-style-type: none">• Approves final ICAPs and transmits them to HART Management• Ensures the consultant receives proper support from HART staff• Documents all standard procedures, project forms and revisions; approves processes and payments• Approves Project Quality Plan developed by the consultant

	<ul style="list-style-type: none"> • Takes delivery of closed out files from Project Execution Manager • Arranges for storage and retrieval of closed files • Makes revisions to ICAPs requested by FTA and sends revised plans to HART Management for re-transmittal to FTA
Project Execution Manager	<ul style="list-style-type: none"> • Initial approval of ICAPs • Provides Bi-Weekly Progress Reports to HART Management • Transmits closed files to HART Liaison • Works with HART Management to respond to FTA questions and comments. Assists in developing the Project Quality Plan • Performs “spot checks” on relocation files to ensure URA compliance • Reviews ICAPs; requests revisions, if necessary • Signs off on all payment packages and sends to HART Liaison for processing
Relocation Project Manager	<ul style="list-style-type: none"> • Day to day Project Manager • Assigns files to Relocation Agents • Reviews initial ICAPs and requests revisions • Transmits corrected ICAPs to PEM • Conducts status meeting with Agents • Reviews, approves, and transmits closed files to PEM
Relocation Agents	<ul style="list-style-type: none"> • Reconciles information obtained in new survey with existing file information • Reviews assigned files • Reviews PMOC spreadsheet • Arranges in person meeting with displacee • Obtains FTA completed survey • Prepares initial ICAPs • Completes corrections to ICAPs, if requested • Notifies displacee of approved, completed ICAPs and provides displacee with copy • Provides advisory services to maximize displacee's available benefits under the approved ICAP • Prepares initial payment packages and ensures payment delivery to displacee • Maintains file records and closes out files • Performs other duties as required

4.7 Qualifications and Experience of Personnel Provided by the Selected Consultant

According to HART, the staff personnel will be provided by a selected consultant to fill the roles and responsibilities of the positions of the PEM, RPM, and relocation agents. The personnel being provided by the consultant and the exact assignment of personnel to their respective positions will be determined after FTA approval of this Plan. HART will consistently monitor the need for personnel to carry out the corrective action plans in consultation with FTA.

4.8 Additional Training

It is recommended that HART employees receive additional training in all aspects of URA relocation guidelines. This training will be necessary to reinforce staff's knowledge of URA regulations, and requirements. It will also allow them to properly supervise consultants and interpret progress reports and other relocation documents. In addition, prior to beginning any work on the project, HART staff and consultants should engage in training on the workflows and general procedures detailed in the final FTA-approved relocation services corrective action plan. These proposed procedures and workflows are discussed in greater detail below.

4.9 Communication with Each Displaced Person

As discussed previously, the relocation agent will meet with displaced persons whose files are assigned by the RPM. Prior to assignment of files, the RPM will review the excel spreadsheet attachment to the PMOC Report to identify files where the PMOC felt compliance could be achieved and where the PMOC felt the displaced person might have been harmed by the actions of the initial relocation process. These files will be prioritized when making assignments. As per the spreadsheet, many of these types of files involve potential underpayments. (The PMOC spreadsheet is not included in this Plan as it contains confidential displacee information.)

The following chart shows those parcels where displaced persons were harmed due to underpayments or not being offered one or more benefits:

Parcel #	Probable Underpayment on One or More Benefits	One or More Displaced Person(s) Not Offered One or More Benefits
402	✓	
405	✓	
107	✓	
307	✓	✓
102		✓

Parcel #	Probable Underpayment on One or More Benefits	One or More Displaced Person(s) Not Offered One or More Benefits
206		✓
113		✓
433A	✓	✓
405	✓	✓
403A		✓
106		✓
203		✓

The RPM will make the best possible assignment of displacement files based on the experience and skillset of the agent. For example, agents possessing the most experience will be assigned the more complex parcels. Existing files will be reviewed in order to find contact information to set up the in-person meetings. If existing contact information proves to be no longer inaccurate, reasonable attempts will be made to find the correct information. These attempts will include diligent internet searches, phone directory searches, and actual on-site door knocking. If none of these methods yields sufficient contact information, a classified newspaper ad will be placed. This ad will be prominent and not something that could easily be looked over or not seen due to size and location in the paper. The relocation agent's efforts to reach displaced persons will be recorded in the individual diary and tracked in the RPM's bi-weekly progress report. Continuing efforts will be made to reach all displaced persons.

All reasonable efforts will be used to conduct meetings at a time and place that is convenient to the displaced person. When time allows before the meeting date, a standardized letter that has been developed and approved through the QA/QC process will be sent to the displaced person. This letter will describe the purpose of the meeting, and the types of information that will be requested. If time does not permit, the approved standardized letter will be distributed to the displaced person by hand at the meeting. The letter will identify the relocation agent and RPM and give contact information for each. If the displaced person chooses to have a non-displaced person attend the meeting and/or act as his or her representative, the relocation agent will request a written letter from the displaced person authorizing the representative. The date, time and place of the meeting and the items discussed as well as any requests for information will be noted in the relocation agent's diary and placed into the bi-weekly progress report prepared by the RPM. If the displacee is unable to complete the FTA-supplied survey or does not have the information to do so at the meeting, the relocation agent will follow up with the displaced person at a later date. If another meeting is required, the relocation agent will be made available at a time and place that is reasonably convenient for the displaced person. For complex relocation cases, the RPM will attend the meeting as well as the relocation agent.

4.10 Reconciliation of Information Gathered in Meetings with Current Files

4.10.1 Reconciliation of Information

As previously discussed, the relocation agent will be assigned case files by the RPM and set up meetings with the displaced persons assigned to him or her. After attending the meeting and receipt of a survey, the relocation agent will review the survey for completeness. The relocation agent will follow up with the displaced person with any questions on the survey. Once the agent is satisfied that the survey contains complete and accurate information, he or she will review the comments on the excel spreadsheet attached to the PMOC Report for that file. The relocation agent will compare the information presented on the FTA survey sheet with the information on the excel spreadsheet and note any factual differences on a standardized reconciliation check sheet, which will be developed by the RPM. The relocation agent will note the impact of the discrepancies upon the benefits and services that were previously provided and what benefits and services should now be given to the displaced person.

4.10.2 Reconciliation of Information Used as Basis of Individual Corrective Action Plans

These observations will become the basis of the ICAP. The relocation agent will then write a specific recommendation for the displaced person. The recommendation will point out the factual discrepancies and detail how each discrepancy impacts the benefits and services the displaced person should receive under the URA. The relocation agent will demonstrate how the displaced person is entitled to the recommended benefits and services by citing the appropriate regulation in 49 CFR 24 and the appropriate sections of the URA. The relocation agent will detail how his or her recommendation takes into account the determinations of curable and non-curable items based upon the information found in the excel spreadsheet attachment to the PMOC report. If an item is not curable, the relocation agent shall list the item and describe why it is not curable and not capable of resolution by the corrective action plan.

The recommendation will be given to the RPM who will review it for factual accuracy. It will also be reviewed for URA compliance in regards to the benefits and services proposed by the relocation agent for that particular file.

If errors are found in the recommendations or factual information, the recommendation will be returned to the agent for corrections. After the RPM's approval of the reconciliation and benefit recommendation, the check sheet will be returned to the relocation agent to put together a formal individual corrective action plan. The RPM and relocation agent will have to consider a number of unique issues in preparing the corrective action plan.

For example, if an initial rental supplement was incorrectly calculated:

- How will the new rent supplement be calculated so the new calculations are all done consistently throughout the project?
- If part of the rental supplement calculation that was done incorrectly also encompasses a number of bedrooms required at the time of the calculation and the number of bedrooms is higher now, how will this be handled (i.e. a baby was born since displaced)?

- If the displacee(s) requires a higher room count at the date of the corrective action plan than previously, and a new move cost calculation is required, how will this be handled?
- Would the displaced person qualify for the newly corrected rental supplement if it is higher than the initial one?
- Would the displaced person be required to move if the recalculated benefits indicates that they are eligible for a higher replacement housing payment? If so, would the costs to move the displaced person's personal property to the higher priced unit be duplicative of the amounts already paid to move the items?
- Would FTA be willing to participate in the costs of these types of additional corrective action benefits?
- Do any re-calculations in the corrective action plan constitute duplicative payment?

The individual corrective action plan will be sent to the RPM for approval. Upon the RPM's approval, the individual corrective action plan will be sent to the PEM. He or she will approve the plan or request corrections. If no corrections are required, the plan will be sent to the HART Liaison for transmittal to HART management who will then send it to FTA for final approval. Once approved by FTA, the corrective action plan will be returned to the RPM who will transmit it to the relocation agent who will begin to execute the plan. The RPM's progress report will note the date the approved plan was given to the relocation agent and note the agent's progress on executing the plan.

If the PEM requires corrections to the initial plan, he or she will detail those corrections and the reasons therefore on a standardized form. This form will be sent to the RPM who will follow up with the relocation agent to complete the revisions. The revisions to the plan will be sent back to the PEM who will sign off on them and send them to the Liaison who will forward them to HART management for approval. Once FTA approves the revised individual corrective action plans, the RPM will then assign the plans to the appropriate agents and monitor the agents' progress on executing the plans.

It should be noted that during the corrective action process, the displaced persons affected will receive appropriate advisory services. These services will address all eligible benefits offered in compliance with the URA. The relocation advisory program will be administered so that the relocation process will not result in different or separate treatment on account of race, color, religion, national origin, sex, marital status, or any other arbitrary circumstance. Residential assistance will be in compliance with 49 CFR Section 24.205(c)(ii) as noted: "Determine, for residential displacements, the relocation needs and preferences of each person to be displaced and explain the relocation payments and other assistance for which the person may be eligible, the related eligibility requirements, and the procedures for obtaining such assistance." Advisory services will be provided to residential displaced persons through counseling, resource assistance, and relocation coordination on the basis of each individual corrective action plan. This counseling will also include the requirement for a decent, safe and sanitary dwelling and other

residential displacement requirements.

For non-residential displacees, the advisory program shall include measures, facilities, and services that may be necessary according to the ICAP. These services would include the following:

- For displacement of non-residential properties, businesses, farms, and non-profit organizations, determining their relocation needs and preferences.
- Explaining relocation payments and other assistance for which they may be eligible, related eligibility requirements, and procedures for obtaining this assistance.

In addition, displaced persons will be reminded that relocation benefits are not considered taxable income.

4.10.3 Banana Patch Community

The Banana Patch Community represents a special Environmental Justice scenario for the HART Project. As such, HART was sensitive to this special situation and to the extent that the residents of the Banana Patch community so desired, HART endeavored to relocate residents as a community to a location where their unique lifestyle could be maintained. All residents of the Banana Patch were interviewed during the relocation process to determine the displacees' needs with respect to being relocated as a community.

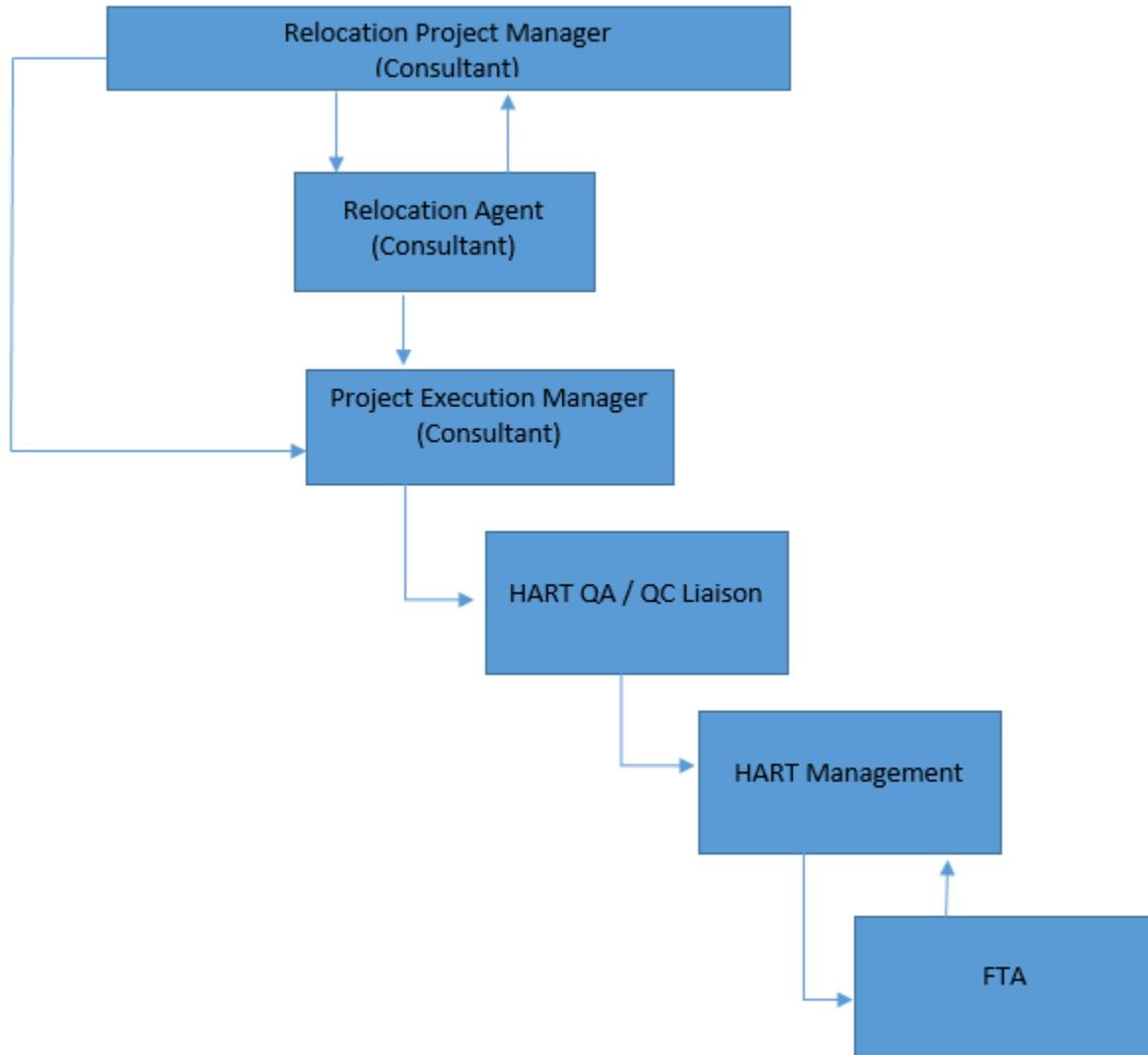
Based on the interviews and desires of the residents, HART developed a specific and tailored relocation plan to meet their needs, and fulfills the requirements as outlined in the Record of Decision with regard to compliance with Executive Order 12898. It was determined that the residents require supplemental benefits to meet the requirements in the Programmatic Agreement. HART has implemented the requirements as prescribed in the HRTP Mitigation Management Plan, which exceeds the requirements of the Uniform Act. Further, Housing of Last Resort (49 CFR 24.404) was implemented if required to successfully relocate all Banana Patch residents and the non-profit church.

Relocation files for residents of the Banana Patch were included in the 100 files reviewed by the PMOC, as per HART. During the corrective action process, HART will continue its sensitivity to residents of this community and continue to adhere to its specific relocation plan as well as the FTA-approved corrective action plan.

4.11 Summary of Workflow

The following diagram summarizes the workflow for individual corrective action plans described in sections 4.1 to 4.10 of this Plan.

Figure 4.11 Process Workflow for Individual Corrective Action Plans



The Workflow of ICAPs will be scheduled initially as described in section 4.16 of this Plan. However, the schedule is subject to change by HART based on project needs. As previously mentioned, the RPM will prepare a detailed schedule before the work effort begins.

4.12 Notification of Individual Corrective Action Plans (ICAP)

All displaced persons shall receive written notification of and a copy of HART's FTA-approved ICAP and an FTA-approved relocation brochure. A standardized notification letter shall be developed by the RPM. The notification letter will state the purpose of the enclosed corrective action plan and give the displaced person instructions on how to follow up with the individual relocation agent in a reasonable timeframe. Should the displacee not contact their assigned relocation agent within two weeks of receiving their notification letter, the relocation agent will make every attempt to contact the displacee within 48 hours. The notification letter will describe any additional benefits or services the displaced person may be eligible for and how they differ from the benefits and services previously offered. The notification will advise the displaced person on how to qualify and claim each additional benefit and give a timeframe for claiming such benefits. This letter will also provide instructions regarding the appeal process. The letter will describe a typical payment processing time after the relocation agent receives a completed, properly documented and signed claim form from the displaced person. The letter will invite displacees to request any additional meetings or further information from the relocation agent in order to claim the additional benefits.

For the six files that the PMOC identified as being in compliance with the URA, a notification letter will be sent to these displaced persons indicating that their files were in compliance with the URA. In those cases where the relocation file indicates that additional corrective actions are not possible (such as where required notices were not sent, overpayments were made, etc.) and the displaced person is not eligible for additional benefits, a letter will be sent explaining that the relocation file was reviewed but no further action by HART is required under the URA. However, should the displacee disagree with the findings, their right to appeal will be explained. (HART will not require repayment of overpayment amounts.)

4.13 Consideration of Appeals

As previously noted, HART will allow and consider relocation assistance appeals under the URA guidelines. These appeals will include any items the displaced person believes that he or she was eligible for and denied or any items that he or she believes were paid in the wrong amount by HART. These items will include any benefits originally provided to them or any items contained in the copy of the corrective action plan the displaced person will receive. Specifically, HART will adhere to the following URA-compliant appeals procedures.

All displaced persons will be informed of their right to appeal the eligibility determination or the amount of the relocation payment. The right of appeal will be described in all brochures and other informational pamphlets distributed to the public. HART shall promptly review appeals in accordance with the requirements of applicable laws and HART's appeal procedure. All displacees have the right to be represented by counsel or other representatives for their appeal, but solely at the person's own expense. HART will explain the relocation-related appeal process to the person, and will permit them to inspect and copy all but confidential materials that are pertinent to the appeal during working hours.

The written appeal must be filed no later than 60 days from the date that the aggrieved person receives written notification from HART that the claim has been denied. Failure to submit a written appeal within this time may result in denial of the claim.

The displacee or aggrieved person may submit a written appeal with all necessary data and information in support of the person's claim to the Deputy Director of Transit Property Acquisition and Relocation, who will conduct a review of the case. Formal appeal requests must be made in writing and directed to:

Dean Yogi
Deputy Director of Transit Property Acquisition and Relocation
Honolulu Authority for Rapid Transportation
1099 Alakea Street, Suite 1700
Honolulu, Hawaii 96813

The Deputy Director of Transit Property Acquisition and Relocation shall first review such a request and forward it with a recommendation to the ROW and Special Project Officer for review and decision. The decision must be rendered within 60 days from receipt of appeal. The notice of the decision must be by certified letter, with a return receipt requested.

If the full relief requested is not granted, HART shall advise the person of the right to appeal further under HART's appeal procedures. The person may request an Administrative Review. Requests for Administrative Review must be made in writing and directed to:

Andrew S. Robbins
Executive Director and CEO
Honolulu Authority for Rapid Transportation
1099 Alakea Street, Suite 1700
Honolulu, Hawaii 96813

Any claim for a relocation payment shall be supported by documentation that may be reasonably required to support the expenses incurred (e.g., bills, certified prices, appraisals, or other evidence of such expenses). A displaced person must receive the reasonable assistance necessary to complete and file any required claim for payment. The Executive Director and CEO, or assigned designee, will conduct an administrative review and consider all information and justification submitted by the aggrieved person. If Administration finds in favor of the aggrieved person, the person will be notified of the determination by certified letter, and HART will provide the necessary claim forms and assistance to process the claim.

If the Administration concurs with the earlier decisions, then the aggrieved person will be notified of the determination in writing and HART will advise the person of the right to seek a judicial review through the Circuit Court of the Circuit in which the person resides.

4.14 Record Keeping

As previously stated, HART will document all contacts and activities related to the ICAPs as per the record keeping requirements of the URA and 49 CFR 24.9. 49 CFR 24.9 states:

(a) Records. The Agency shall maintain adequate records of its acquisition and displacement activities in sufficient detail to demonstrate compliance with this part. These records shall be retained for at least 3 years after each owner of a property and each person displaced from the property receives the final payment to which he or she is entitled under this part, or in accordance with the applicable regulations of the Federal funding Agency, whichever is later.

(b) Confidentiality of Records. Records maintained by an Agency in accordance with this part are confidential regarding their use as public information, unless applicable law provides otherwise.

(c) Reports. The Agency shall submit a report of its real property acquisition and displacement activities under this part if required by the Federal Agency funding the project. A report will not be required more frequently than every 3 years, or as the Uniform Act provides, unless the Federal funding Agency shows good cause. The report shall be prepared and submitted using the format contained in appendix B of this part.

Appendix B referenced above gives further instructions on record keeping which HART will adhere to.

In accordance with 49 CFR 24.9, HART will retain copies of all original acquisition and relocation documents. Copies of all parcel sketches and legal descriptions will be kept in the general file and in each individual file to which they apply. Individual contact records will be a part of each parcel file and they will also be part of an electronic tracking system that produces a log of all contact records that HART will maintain. It should be noted that the tracking system is not a centralized document library. It will contain highly sensitive information that will be kept confidential, and only appropriate Right-of-Way personnel will have access to the system. HART acknowledges that it will keep records of the closed out corrective action files, which shall be kept separately from the original files, in a way that facilitates ease of file retrieval and separates each individual file into its distinct parts for ease of access. Following “Best Practices”, a uniform system of file organization will be developed by the HART Liaison and implemented in every file for ease of reference.

4.15 Correction of Factual Misstatements in PMOC Report

As stated previously, FTA requires that HART provide any corrections to factual misstatements in the PMOC Report dated July, 30, 2019. As a general matter, HART will review the PMOC report again to point out any factual errors. However, it is assumed that this directive primarily concerns factual items reported in the files that were reviewed and analyzed in the excel spreadsheet attached to the report. As discussed in an earlier section of this Plan, the corrective actions team will compare the information given by displaced persons in the FTA-approved survey with the information originally placed in each individual relocation file. Any discrepancies in these facts

will be noted in the file assessment and noted in the ICAPs themselves before the plans are sent for FTA approval. If further factual clarifications are requested by FTA, HART will address those requests.

4.16 Corrective Actions Schedule

The corrective action timeline will be developed to ensure all applicable milestones are addressed prior to the FTA deadline of September 30, 2020. The major tasks associated with the workflow of corrective actions will be scheduled initially as shown below. However, the schedule is subject to change by HART based on project needs. As previously mentioned, the RPM will prepare a more detailed schedule before the work effort begins.

Corrective Actions Schedule

Milestones	Date(s)
- FTA Approval of Corrective Action Plan	11-15-2019
- Documentation of FTA Approved Procedures in Plan	11-16-2019 to 11-23-2019
- Staff / Team Organization and deployment	11-24-2019 to 12-10-2019
- Kick off meeting with staff and consultants	12-11-2019
- Staff / Consultant Procedural Training	12-11-2019 to 12-18-2019
- Relocation Project Manager reviews PMOC findings and begins to assign files to individual Relocation Agents	12-19-2019 to 09-30-2020
- On-going preparation, approval, and execution of ICAPs	12-19-2019 to 09-30-2020
- Preparation of progress reports to FTA	12-19-2019 to 09-30-2020
- Preparation of Final Project Close Out Report	09-30-2020

Appendices

PMOC SPECIAL REPORT

Review of Uniform Relocation Assistance Act Compliance

OP-3 – Technical Assistance and Special Tasks Report
Honolulu Rail Transit Project

City and County of Honolulu
Honolulu Authority for Rapid Transportation (HART)
Honolulu, HI

Final Report

Submitted July 30, 2019

PMOC Contract Number: DTFT60-14-D-0011L
Task Order No. 69319518F300072 (Formerly T.O. No. 14)
OPs Referenced: OP 1 & 3

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Subconsultant Lead: Lisa Barnes, O.R. Colan Associates, (850) 907-0400, lbarnes@orcolan.com

Length of Time PMOC Assigned to Project: 11 months

Length of Time PMOC Lead Assigned to Project: 11 months

Length of Time PMOC Subconsultant Assigned to Project: 8 Years

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Background

The Honolulu Rail Transit Project¹ (the Project) is to provide fast, reliable public transportation services to a rapidly developing area and to ease congestion in the east-west transportation corridor between Kapolei and the University of Hawaii at Manoa. The Project is also intended to provide basic mobility in areas with diverse populations. The Project supports the goals of Oahu's General Plan and the 2030 Oahu Regional Transportation Plan by serving areas designated for urban growth.

FTA approved the request by the City and County of Honolulu (the City) to advance the project into Preliminary Engineering (PE) on October 16, 2009, Final Design (FD) on December 29, 2011, and Full Funding Grant Agreement (FFGA) on December 19, 2012.

In February 2018, the Honolulu Authority for Rapid Transportation (HART) notified FTA of certain areas of non-compliance with the relocation assistance requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (the Uniform Act or URA) after it performed its own compliance assessment through a consultant familiar with the relocation assistance requirements of the URA. This assessment indicated that non-compliance with the URA relocation assistance requirements was pervasive throughout the project. The primary non-compliance issues focused on payments to displaced persons that exceeded amounts prescribed under the URA, also referred to as overpayments. In February 2019, FTA notified HART that it would undertake a physical inspection of all HART relocation assistance files to determine HART's level of compliance with the relocation assistance requirements of the URA.

Scope of Review

The purpose of this review was to assess HART's compliance with the relocation assistance requirements of the URA and its implementing regulations at 49 CFR Part 24. The review included two phases:

- Phase 1 - Conduct a site visit at the HART offices May 13-17, 2019 to review and inspect HART's project relocation assistance files.
- Phase 2 – Provide an OP-3 – Technical Assistance and Special Tasks written report that includes the following items:
 1. A summary of each relocation parcel file and the specific areas in which each are deficient with 49 CFR Part 24 (URA) requirements.
 2. An assessment of the degree to which the overall HART project is: a) in compliance with URA requirements; b) is not in compliance with URA requirements but can be brought back into compliance; or c) is not in compliance with URA requirements and cannot be brought back into compliance.
 3. If the project can be brought into URA compliance, what specific action items would HART need to correct to comply with the requirements.

¹ Name used in the FFGA and HART's PMP.

4. An assessment of the status of HART's current real estate staff and its relocation consultants regarding their capability and capacity to fully comply with URA requirements moving forward.

The Uniform Act

The URA is a federal law (Public Law 91-646, as amended) that applies to all acquisitions of real property or displacements of persons resulting from federal or federally-assisted programs or projects. The URA and its implementing regulations at 49 CFR Part 24 have a two-fold purpose: to ensure that persons displaced as a direct result of federal or federally-assisted projects are treated fairly, consistently, and equitably so that such displaced persons will not suffer disproportionate injuries because of projects designed for the benefit of the public and ensure that owners of real property to be acquired are treated fairly and consistently. The regulations also have an objective of ensuring that agencies implement the regulations in a manner that is efficient and cost effective. The Federal Highway Administration (FHWA) is the designated lead agency responsible for the implementation of the URA.

Relocation assistance is mandated by the URA and implemented by regulations (49 CFR Part 24). Congress tied compliance with the law to funding of other aspects of the project, which means that federal funding in any phase of a project, including construction, requires compliance with URA requirements for acquisition and relocation. FTA grants also cite the necessity of compliance with all aspects of the URA, including the provision of relocation payments and services.

To assess the compliance of the HART relocation program, the PMOC review focused on HART's performance in the following areas.

- Advisory Services
- Recordkeeping
- Documentation
- Notice Requirements
- Probable Overpayment
- Probable Underpayment
- Ineligible Payments
- Benefits Not Offered or Paid
- Global Settlements

A brief description of the importance of each area is provided to explain why compliance is necessary for a successful relocation program.

Advisory Services

Congress required a displacing agency to provide advisory assistance because it was presumed that persons being displaced would not be versed in the relocation program. Further, Congress anticipated that many displaced persons, residential and nonresidential, would need assistance in locating replacement property. Specifically, advisory services as provided for in the URA regulations require that an agency must inform potential displaced persons of the program, conduct a personal interview to determine the needs and preferences of a displaced person, provide an explanation of the relocation program and its options, address the displaced person's questions concerning the program and options, provide notices as to specific eligibility, and provide information about available replacement property. §24.205(c) of the URA regulations contains

additional specific services that are required. Advisory assistance should occur throughout the displacement process. An agency's advisory services form the core of a high-quality relocation program.

Recordkeeping

The URA regulations provide a simple, clear statement about recordkeeping requirements at §24.9. "The Agency shall maintain adequate records of its acquisition and displacement activities in sufficient detail to demonstrate compliance with this part." The records and documentation must be sufficient to permit review by FTA to determine compliance. The documentation needs to clearly set out the eligibility of displaced persons and must demonstrate that displaced persons receive the appropriate payments to which they are entitled. FTA grants require compliance with the URA when the grantee acquires real estate or displaces persons, therefore, the recordkeeping provision is key to grant compliance verification.

Documentation

Documentation must be maintained in each file to show how the agency implemented the relocation requirements for the displaced person. The documentation consists of various types of supporting records, but foremost among these is typically a narrative type journal or log that is tied to each step of the relocation process – from the agency's first contact with the displaced person, through eligibility determination, payment calculations, the move to the replacement property, and final claim forms. The documentation in the file must clearly tell the story of the relocation including how and why specific actions and payments were made. Documentation should address:

- The eligibility of a person(s)
- Advisory services offered and provided
- The delivery of required notices
- The determination of maximum payment amounts
- The calculation of the actual payment made to the displaced person
- Proof of payment

Notice Requirements

The URA regulations require the delivery of certain relocation notices to displaced persons at various times in the relocation process. Each notice fulfills a different purpose, however, they all provide information that is an important element of advisory services. The General Information Notice is usually given to persons the agency anticipates will be displaced since a person's eligibility for relocation cannot be established until the date negotiations are initiated through the first written offer to the property owner. This notice provides the necessary information about the relocation program, describes the nature of advisory services available and explains the person's likely eligibility for certain relocation payments. The Notice of Relocation Eligibility informs a person that they are displaced by the project and establishes eligibility for specific benefits on the date of initiation of negotiations (ION). This notice should be delivered promptly after the ION. Although the regulations do not define the term "promptly," most agencies consider a reasonable period for delivery to be within 14 days and not more than 30 after ION. The Ninety-Day Notice may either provide a displaced person with an assurance that the agency will not require them to move from the subject property in less than 90 days, usually from the date of delivery, or it provides a 90-day period to move with a specific vacate date. This 90-day period to accomplish a move is one of the most important protections the URA affords a displaced person, and the displacing

agency should fulfill this obligation, unless it determines the 90 days is impracticable. For example, the agency may determine continued occupancy represents a health or safety risk to the occupant. The agency would have to document this decision in the parcel file.

Overpayments/Ineligible Payments

Overpayments occur when the relocation payments to the displaced person exceed the amounts prescribed in the URA or its implementing regulations. These excess payments are not generally a violation of the URA since the law sets its payments as the minimum that must be paid. Many states have enacted laws that mandate payments greater than the URA, such as reestablishment payments higher than \$25,000 or fixed nonresidential payments greater than \$40,000. As such, these larger payments are not considered a detriment to the relocation program. FTA does not participate in payments which are above the amounts required by the URA. Hawaii state law has no state mandated payments which exceed URA authorized payment amounts.

Overpayments may also occur when the relocation payment is not calculated correctly. The URA provides a list of certain items that are specifically ineligible for payment.

The URA regulations specify a formula for computing some moving expense payments, such as actual direct loss of tangible personal property and substitute personal property. If this formula is not properly applied, it can result in a payment that is more than the amount specified in the regulations.

Ineligible payments occur on projects through error or as an administrative remedy for an unusual situation. The URA provides a list of certain items that are specifically ineligible for payment. A payment may be considered ineligible if it is not required or supported by the URA, but it may not be a violation of the law provided the agency makes all eligible payments under the relocation program. These types of ineligible payments must be carefully documented in the file and noted on the payment claim form as federally non-participating costs. Relocation payments that represent a duplication of other payments the displaced person has received are ineligible and these occurrences are a violation of the URA. FTA does not participate in any ineligible payments since they are not grant eligible.

Probable Underpayments

Underpayments occur when a displaced person does not receive the relocation payment for which they are eligible; typically, an underpayment means the agency did not provide the displaced person with the full eligible amount. As an example, the agency may compute a maximum replacement housing payment based on a 2-bedroom replacement dwelling, however, a comparable replacement dwelling for the displaced household must be 3 bedrooms to meet decent, safe and sanitary standards.

The failure to provide displaced persons with the full amount of their relocation payment is a URA violation. Underpayments may lead to the inability of displaced persons to successfully relocate, since the relocation payments are principally used to move and buy or rent replacement property.

Benefits Not Offered or Paid

Relocation benefits are mandated by law and by terms of the FTA grant agreement. An agency must offer all eligible payments to a displaced person and provide advisory assistance to ensure the person claims these amounts. Any variance from that norm must be documented in the relocation file.

The failure to offer displaced persons benefits for which they are eligible or ensure they receive payment for these benefits represents a major deficiency of a relocation program.

Global Settlements

Global settlements are negotiated lump-sum payments that are a combination of relocation payments and acquisition funds. Global settlements are not permitted by the URA since there is no documentation of the actual cost incurred to qualify for the relocation payment. FTA does not participate in global settlements.

Conducting the Site Review

All persons who reviewed HART relocation parcel files have substantial experience in the URA relocation program. Each HART file review was guided by an FTA Relocation File Evaluation Form. The Evaluation Form was used to assure a consistent review and mirrored the above nine focus areas. A separate Evaluation Form was used for each relocation parcel based on the type of either residential or nonresidential displacement. The Evaluation Form addressed issues of compliance based on specific subsections of the regulations. The residential and nonresidential forms were substantially the same but reflected the differences in the two types of relocation.

The Evaluation Forms for residential and nonresidential displacements prompted reviewers to assess the following items:

Subpart A General

- The method for delivery of notices and documentation of receipt by the displaced person to assure that persons were reasonably informed of the relocation program.
- Adequacy of file records maintained.
- Appeal requirements met, if applicable.

Subpart B Real Property Acquisition

- Determination of real property vs. personal property documented in file.
- For any tenant-owned improvements, the compensation paid, the basis for determining the compensation and the required support documentation in the file.
- Likely duplication of payments to acquire a tenant-owned improvement and relocation payments to move it.

Subpart C General Relocation Requirements

- Required relocation notices included in the file: General Information Notice (usually a brochure outlining the relocation program), Notice of Relocation Eligibility, and either a Ninety Day Letter of Assurance (which may require a 30-Day Notice to Vacate) or a Ninety Day Letter to Vacate.
- Comparable replacement dwelling made available to residential displaced person. About the time that the property is appraised, the relocation function begins by determining the availability of replacement housing for the displaced person. For both tenants and owners, a comparable replacement dwelling is located and used to determine the maximum replacement housing subsidy that will be offered to the displaced person. Once the initiation of negotiations has occurred for the subject property, the displaced person is contacted, and relocation benefits are offered. These offers are made in writing and should identify the property used in the calculation of the maximum payment. The oral

presentation and the written materials also identify options for payment of moving costs, other incidental costs, and real estate closing costs. These benefits are typically presented in a person-to-person meeting so that questions as to the time to obtain the funds, and the requirements to obtain the funds can be specifically addressed.

- Advisory services provided. For residential displaced persons, an offer of advisory assistance is made to assist the person with locating and purchasing or renting a replacement property. The delivery of notices, explanation of the payments and options available is also advisory assistance. This process must be documented in the file. For nonresidential displaced persons, advisory assistance includes notice delivery, explanation of move cost payments and options available, list of available suitable replacement sites.

Subpart D Payments for Moving and Related Expenses

- Method of move cost reimbursement for displaced person, move cost calculation, and whether it met requirements.
- For nonresidential displaced persons, other related move expenses or reestablishment expenses claimed.

Subpart E Replacement Housing Payments

- Occupancy type (owner occupant/90-day tenant/less than 90-day occupant)
- Claim type
- Housing of Last Resort determination documented, if applicable
- Low Income Determination completed for tenants
- Decent, safe and sanitary inspection conducted

The reviewers also used the Evaluation Form to verify other information and document findings.

- All eligible payments were actually made. This included the payment of moving costs as elected by the displaced person; and the appropriate payment of replacement housing based on the agency's calculation and actual replacement acquired by the displaced person. In each of these cases, the file must support the payments actually made.
- A list of all payments made to the displaced person as identified in the file.
- A list of all findings identified by the reviewer (all missing items, responses in the negative and “NO” answers for the items related to the URA regulation Subparts required a finding). These findings were further separated by the likelihood that deficiency was “Curable” or “Not Curable.” For example, a payment that was not made or not fully made to the displaced person might be a curable finding since HART may still be able to locate the person and make the full payment. An incurable finding might be the omission of various notices, since the provision of those notices at this time would have no effect under the regulations and serve no purpose. Corrective actions were provided for curable findings.
- Evaluation of the overall relocation payment – either correct payment, probable overpayment, which is not curable and not eligible for Federal participation, or probable underpayment which requires corrective action. If the file contained adequate documentation, it may be possible to estimate the amount of overpayment or underpayment.
- Lastly, the reviewer was asked to evaluate the file for overall compliance with the URA. For example, it is possible for a file to demonstrate poor advisory services yet have minimal

impact ultimately on the displaced person. In other instances, the lack of advisory services might prevent the displaced person from fully utilizing their relocation benefits.

Copies of the Residential and Nonresidential Evaluation Forms are included in this report as Attachments A and B respectively.

The review team for the on-site visit included 2 FTA staff and 3 subconsultant staff. In addition, one subconsultant staff person performed an off-site review of electronic files that were provided by HART. One FTA staff person performed file reviews and the other managed administrative tasks associated with the review. All subconsultant staff performed file reviews.

Reviews were completed for a total of 100 relocation assistance files. These files consisted of 29 residential relocations and 71 nonresidential relocations. The results of these individual relocation parcel file reviews are summarized in an Excel spreadsheet, which is submitted with this report.

Findings

The review findings are separated into two groups: findings for the key compliance areas of the URA regulations and findings for the overall file evaluations. In reporting the total number of findings in each of the key compliance areas, it is important to note that these totals reflect only one finding in an area of a relocation parcel file, although the noncompliance may have occurred multiple times for that relocation parcel. For example, a nonresidential displaced person may have received three separate moving cost payments and the relocation file did not contain documentation to support any of these payments. The Evaluation Form and the Excel spreadsheet will report three instances of noncompliance with the documentation requirement, however, this will count as one finding of noncompliance in the total number of findings in the documentation area.

Advisory Services:

50 of the 100 files (50%) had a finding of noncompliance with this critical component of the relocation assistance program. Advisory services are primarily verified by some type of narrative log or journal that documents the agency's contacts with the displaced person. This record demonstrates the quality of the assistance provided and is also evidence of the ongoing effort to assist throughout the process. Other file records can show an agency is meeting its advisory services responsibilities, such as delivery of notices, completion of survey/interview forms, and offers of replacement property.

One-half of the files reviewed indicated a failure to comply with this important requirement, and most of these lacked the most basic or minimal record to demonstrate that appropriate advisory services were provided to the displaced persons. Reviewers found many instances where an agent representing HART did complete an initial interview form, which seemed to indicate some explanation of the relocation program was provided. After that contact, however, the record was very sporadic or nonexistent. Generally, findings of this nature are not curable, and it is assumed that if advisory services are not documented in the relocation file, they were not provided.

Two other concerning issues related to advisory services were consistently noted. After an initial interview was conducted, almost all contacts between the agent and displaced person that were documented in the files were by email or telephone. In many files, it was not clear that the agent had any personal contact with the displaced person. The URA regulations do not mandate that all contacts be made in person, however, it is difficult for an agency to provide meaningful assistance

that meets the needs and preferences of persons it is displacing if agents do not visit the displacement and replacement sites and monitor the process.

There were numerous instances where HART acquired a building that was occupied by several business tenants. These tenants were displaced by the project, but they remained on the displacement site for a year or more as tenants, paying monthly rent to HART as the new owner. These tenants should have received a Notice of Relocation Eligibility promptly after the initiation of negotiations (ION) with the owner of the real property (the date of the first written offer to acquire by HART). This notice tells the displaced person definitively that they are displaced by the project and are eligible for certain benefits under the URA. In most cases, these tenants were not given the required Notice of Relocation Eligibility until many months after the ION and in some instances the delay was 3 years. This is a serious deficiency in advisory services.

Recordkeeping:

57 of the 100 files reviewed (57%) were not in compliance with the requirement that the displacing agency maintain adequate records of its displacements in sufficient detail to demonstrate compliance with the requirements of the URA. Many of the files reviewed contained so little information or documentation that it was difficult or not possible to determine what occurred, that is, how or why did HART decide to approve eligibility for certain payments and then approve the payment calculation. As with advisory services, keeping a contemporaneous record of contacts between the relocation agent and the displaced person would certainly assist in maintaining adequate records. Generally, findings of this nature are not curable; it is not possible to retroactively create the necessary records.

Documentation:

55 of the 100 files reviewed (55%) indicated noncompliance with the documentation requirement. This finding of noncompliance is serious for several reasons. The failure to establish and maintain consistent contacts between the relocation agent and displaced person impacts all levels of the relocation program. The file documentation necessary to explain or support a displaced person's eligibility for certain payments and the subsequent calculation of those payments was minimal to non-existent in most of the files reviewed. When files indicated that payments were issued to displaced persons, all files except one lacked the documentation to demonstrate the payments were delivered to or received by the displaced person. Findings related to the delivery or receipt of payments can possibly be retroactively supported by placing appropriate documentation in the file.

Notice Delivery:

15 of the 100 files reviewed (15%) were not in compliance with notice requirements under the URA regulations. These regulations require the delivery of certain relocation notices to displaced persons at various times in the relocation process. Most of the noncompliant files involved a finding that either the required Notice of Relocation Eligibility or the Ninety-Day Notice (sometimes both) were not in the file. The Notice of Relocation Eligibility informs a person that they are displaced by the project and eligible for specific benefits based on their occupancy status on the parcel on the date of initiation of negotiations. The Ninety-Day Notice may provide a displaced person with an assurance that the agency will not require them to move from the subject property in less than 90 days from the date of delivery. In the case of a residential occupant, the 90-day period cannot begin until the agency offers a comparable replacement dwelling. Alternatively, an agency can provide a 90-day period to move with a specific vacate date. This

90-day period to accomplish a move is one of the most important protections afforded a displaced person under the URA, and the displacing agency should never neglect this obligation. Generally, the failure to deliver relocation notices is not considered curable since the notices must be delivered prior to the displaced person's move from the displacement property.

In a few cases where the files had a Ninety-Day Notice to Vacate, HART provided less than the required 90-day period for the person to vacate the property. Although these relocations are noncompliant, the reviewers' evaluation indicated that it likely did not negatively impact the displaced person. A few relocation files lacked receipts for delivery or receipt of the required notices. The lack of receipts can be corrected by placing evidence of notice delivery or receipt in the files.

Probable Overpayments or Ineligible Payments:

28 of the 100 files (28%) included overpayments or ineligible payments. Some of the residential relocation overpayments were the result of a NEPA Environmental Justice mitigation requirement, but those payments exceeding URA maximums were not appropriately documented. For those displacements included in the review that were not subject to NEPA mitigation, many of the overpayments were the result of incorrect payment calculations. It is apparent from the file review that the relocation agents either did not understand the payment calculations or disregarded the URA requirements altogether. For example, several nonresidential files reviewed included payments for actual direct loss of tangible personal property. The proper calculation requires the agent to consider the cost of moving the personal property before determining the payment amount. The correct payment amounts using these move costs would have been significantly lower than the payments HART approved and paid.

These calculation errors and incorrect payments were further complicated by the lack of documentation in the files that could provide any understanding or insight about whether the displaced person was even eligible for certain payments. It appeared in many of these cases that relocation payments were made for items HART purchased as part of the real estate acquisition. If that is the case, these are a duplication of payments, which is a serious deficiency.

Distinguishing between an ineligible payment and an overpayment during this file review was difficult because of the poor recordkeeping and documentation in so many files. Regardless of the classification as an overpayment or ineligible, the payments would not be eligible for FTA participation. HART has indicated (but not provided an accounting) that they have paid back all past relocation assistance reimbursements received from FTA and is using only local funds for current active and future relocations.

Probable Underpayments/Benefits Not Offered or Paid:

16 of the 100 files reviewed (16%) indicated that displaced persons were either underpaid or were not offered eligible relocation benefits. Because the recordkeeping and file documentation was deficient in so many files, it was difficult to determine if an underpayment occurred or if eligible benefits were not offered. If there was adequate data available, the reviewers were able to identify probable underpayments.

The rental assistance replacement housing payments for several residential tenants were reviewed and the payment calculations did not consider whether the tenants met a low-income standard established in the regulations. It appeared from other file information that some of them did, which would have resulted in a higher rental replacement housing eligibility.

For each file, the FTA reviewer would anticipate certain types of payments that are typically claimed by each category of displaced person (e.g., residential owner-occupants, residential tenant-occupants, business, etc.) to be documented in the file. When these were not present, and no explanation was offered through a record of contacts or other documentation of advisory services, the reviewer could not determine if the displaced person chose not to make a claim or did not know about their eligibility for the payment. Lacking any documentation, it must be assumed the benefit was not properly offered or paid to the displaced person. There were also instances where an apparently eligible person was denied benefits with no explanation in the file to support that decision. These issues were noted on the review form for each parcel.

Generally, underpayments or no payments can be cured by locating the displaced person and retroactively offering the benefits not paid. All contacts and payments must be properly documented.

Global Settlements:

None of the 100 files reviewed indicated a global settlement had been negotiated that included payment for the acquisition of real property and all relocation costs.

Figure 1.0 below displays the number of findings in each noncompliance category.

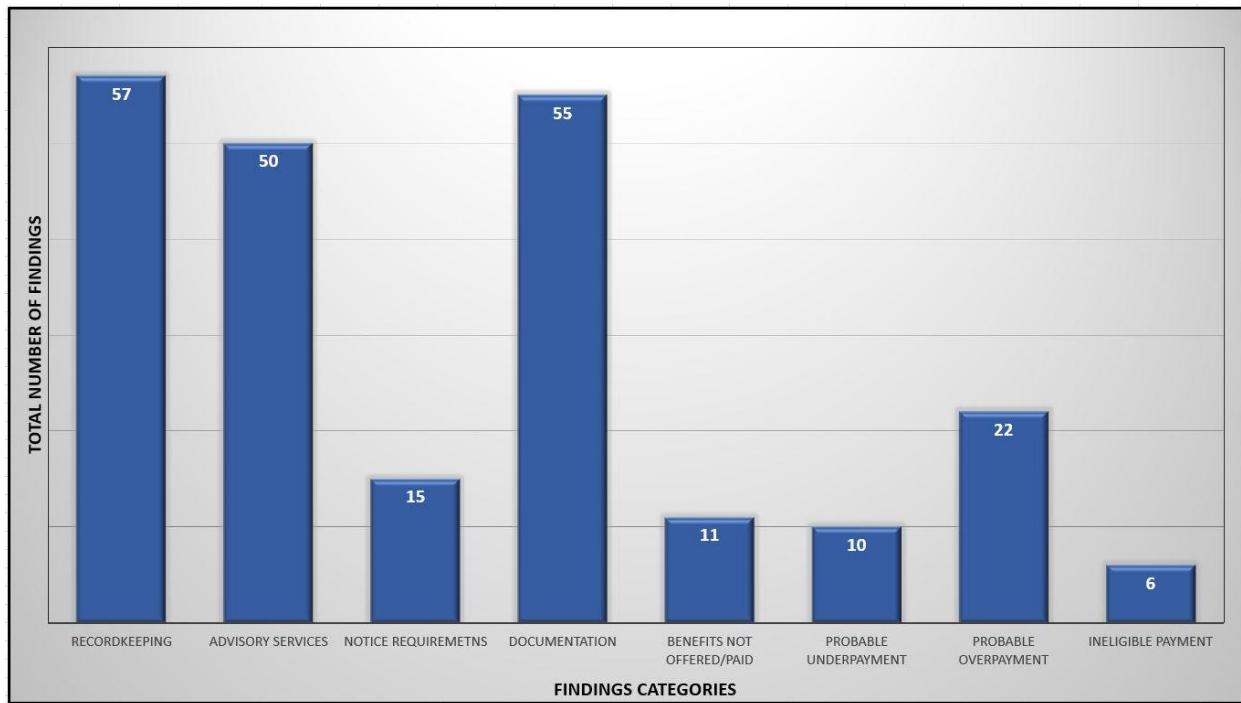


Figure 1.0 – Findings in Each Noncompliance Category

URA Compliance Assessment

Each relocation file was evaluated for overall compliance with the URA. These comprehensive evaluations provide the basis for the assessment required under the scope of the task order. There

were four overall levels of compliance/noncompliance identified. These four levels were discussed at the beginning of this report. The number of relocation files that were classified in each level is indicated below. The summary of each relocation file and the specific areas in which each are deficient with the URA requirements is contained in an Excel spreadsheet which is submitted as part of this report. This spreadsheet also provides an assessment of each parcel's level of URA compliance.

File Is in Compliance with URA Requirements

Our evaluation indicated that 6 of the 100 files reviewed (6%) were in compliance with URA requirements. This percentage is very low, and the reviewers noted that some of these files had minor problems that did not rise to the level of noncompliance.

File Is Not in Compliance with URA Requirements, But Can Be Brought into Compliance with Corrective Action

Our evaluation indicated that 19 of the 100 files reviewed (19%) were not in compliance with the URA, however, corrective action can be taken to bring these files into compliance

File Is Not in Compliance with URA Requirements, Cannot Be Brought into Compliance, But Likely Did Not Negatively Impact Displaced Person

Our evaluation indicated that 31 of the 100 files reviewed (31%) were in this more serious level of noncompliance, although the assessment indicated the displaced person was likely not harmed by the noncompliance. Note that some areas of noncompliance in these files may be curable, but others are not, which resulted in an overall conclusion that the file cannot be brought into compliance.

File Is Not in Compliance with URA Requirements, Cannot Be Brought into Compliance, And Likely Had a Negative Impact on Displaced Person

Our evaluation indicated that 44 of the 100 files reviewed (44%) were in this highest level of noncompliance. The noncompliance is not considered curable and the displaced persons were likely harmed as a result. Note that some areas of noncompliance in these files may be curable, but others are not, which resulted in an overall conclusion that the file cannot be brought into compliance.

Figure 2.0 on the following page displays the percentages of the different levels of compliance/noncompliance found.

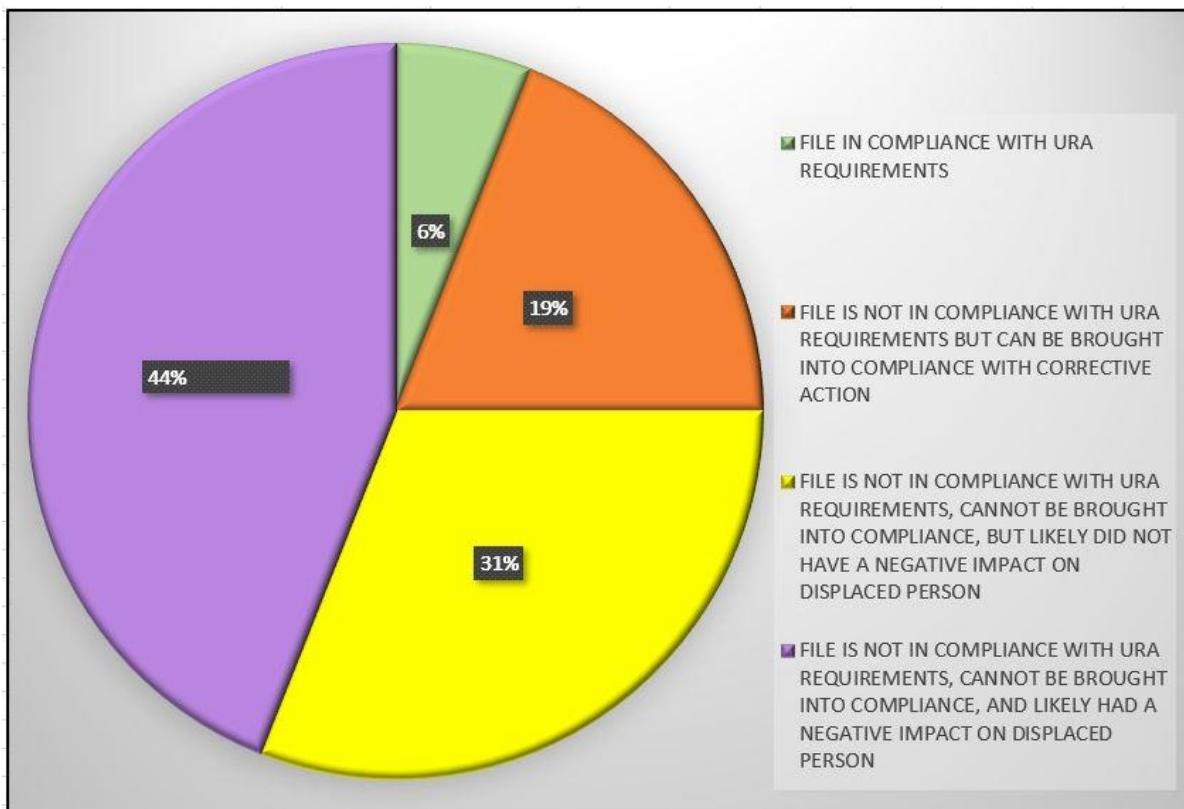


Figure 2.0 – Levels of Compliance/Noncompliance

The HART project is clearly not in compliance with the requirements of the URA and its implementing regulations when 75% of the files indicate noncompliance that is not considered curable. It is likely that persons displaced by this project were harmed by the displacement, rather than receiving the appropriate services and benefits required under the URA.

The highest occurrence of overall noncompliance was in the category of files that cannot be brought into compliance, and likely had a negative impact on the displaced person (44%). There were numerous noncompliance issues for this project that occurred consistently over many years and the combination of these issues led to a conclusion that persons displaced by the project were likely harmed by the displacement. This result runs counter to the primary purpose of the URA, which is to treat displaced persons fairly, consistently and equitably. An agency has a responsibility for ensuring that persons displaced by a project are not impacted unequally by a project that serves the public good.

The negative effects of HART's noncompliance were observed across several aspects of the relocation program, especially when displaced persons did not receive appropriate payments. The best way to demonstrate these effects is to provide a few examples. On one parcel, a person was operating a tenant business while also occupying a portion of the property as a residential tenant. Rather than properly identifying two separate displaced persons, the business and residential tenant, HART only offered relocation benefits to the business. The tenant occupant was not advised of his eligibility for a rental replacement housing payment and did not receive any of the benefits to make comparable rental replacement housing available as required by the URA.

There were several instances noted of displaced residential tenants who probably received a rental assistance replacement housing payment that was less than the correct eligible amount. The intent of the URA is that a low-income person's income should be considered when computing a rental subsidy. For these people, the subsidy is the difference between 30% of gross monthly household income and the cost of the replacement rental dwelling, rather than comparing their current rental amount to the rental replacement amount. The consideration of income often results in an eligibility amount several thousand dollars higher than a "rent to rent" calculation. The files did not show that HART inquired about any of these tenants' income or attempted to verify income, although these files contained other information that indicated the likelihood these tenants would have qualified as "low-income." Without knowing the income of these displaced persons, it is not possible to quantify the potential financial harm caused.

The Excel spreadsheet submitted with this report contains a summary of each relocation parcel file and the specific areas in which each is deficient. Although this document does identify numerous noncompliance items that can be cured, the correction of just these items would not bring HART's relocation program into substantial compliance with the URA requirements. The relocation parcels with curable noncompliance only represented 19% of all files reviewed. The more serious noncompliance that is considered non-curable indicated repeated, systemic problems primarily in the areas of advisory services, recordkeeping, and documentation. These problems in turn created noncompliance in the areas of notice requirements, overpayments/ineligible payments, and underpayments/benefits not offered or paid. An agency cannot operate a sound relocation program by reacting to errors or problems after they occur; it must demonstrate an understanding of the URA requirements and build compliance into its process.

HART will be unable to demonstrate substantial compliance with the URA without a written plan for process improvements that shows how HART will ensure the quality of advisory services, the maintenance of adequate records of its relocation activities to demonstrate URA compliance, and the thorough, contemporaneous documentation of the relocation process for each displaced person.

Recommended Corrective Action for Project Compliance

The reviewers' assessment indicated that most of the files were not in compliance with the URA and could not be brought into compliance. These assessments were primarily based on the type of noncompliance found. If a file is noncompliant in notice requirements or advisory services, it is usually not possible to correct those issues because the displaced person has already moved from the project site. The time for delivering notices has passed and if a contemporaneous record of contacts demonstrating advisory assistance was not kept, it cannot be created after the fact. On the other hand, there were situations where a parcel file could have some findings considered not curable while other findings were curable. For example, underpayments or failure to offer displaced persons payments for which they are eligible are serious noncompliance findings, however, it is possible to cure the noncompliance by locating these persons and offering the benefits not paid. In those parcel files where some findings were considered curable and other were not, the overall file assessment would necessarily be not curable.

Although the level of noncompliance is significant, the review team recommends that HART develop and implement a comprehensive strategic plan for corrective action to focus on two areas. First, this plan needs to address those findings of noncompliance that had negative impacts on persons displaced by the project. The reviewers acknowledge that some noncompliance cannot be fixed after the fact, however, HART can undertake corrective actions to provide the proper

payments in the proper amounts that will clearly benefit the displaced persons who have been affected.

Secondly, the plan needs to identify process improvements for HART's relocation program. It was evident from this review that HART does not have a recognized process or procedures in place that guide the decisions or actions for staff and consultants. Formalizing a process that is accompanied by procedures, guidance and best practices will provide the direction needed for a URA compliant relocation program.

A corrective action plan that will bring HART's relocation assistance program into substantial compliance with the URA requirements will involve a commitment of time and personnel resources. The deficiencies outlined in the report will necessarily require corrective action that includes an individual review and analysis of each relocation, a personal meeting with each person displaced by the project, an assessment of relocation assistance benefits, and a process that allows for relocation appeals. These activities represent a very labor-intensive effort for any knowledgeable, experienced relocation agent. An assessment of current HART real estate staff and consultant staff performed as part of this review indicated that **the agency does not have adequate qualified staff to apply the URA requirements** (reference Review of Current Real Estate Staff and Consultants provided in next section of report).

HART will need to engage an adequate number of qualified personnel to accomplish the corrective action as soon as possible to increase the likelihood of making appropriate payments to eligible displaced persons. The **time frame for completing the corrective action should not exceed 9-12 months**. Based on the reviewers' experience, it may require as many as four (4) full-time, well qualified personnel to effectively and accurately accomplish corrective action in a reasonable time. HART will need to determine the actual number of persons required, in consultation with FTA, by carefully assessing the URA qualifications of each person.

Bringing HART's relocation program back into substantial URA compliance will improve FTA's ability to administer its responsibilities for a URA compliant relocation program and strengthen the public's confidence in the agency's ROW acquisition process. A successful corrective action plan will accomplish the goal of ensuring that persons displaced by the HART project are not harmed and establish a framework for HART to ensure the quality of advisory services, the maintenance of adequate records of its relocation activities to demonstrate URA compliance, and the thorough, contemporaneous documentation of the relocation process for each displaced person.

Review of Current Real Estate Staff and Relocation Consultants

The scope of work for this relocation review required an assessment of HART's current real estate staff and its relocation consultants regarding their capacity and capability to fully comply with URA requirements moving forward. Unlike the file reviews that assessed past project performance, this aspect of the review was seeking information about any real estate staffing issues that could impact the ability to move the relocation program beyond its status now.

The evaluation of staff and consultants was performed through individual interviews, since familiarity with the URA and relocation work experience is a useful predictor of successful performance. Prior to conducting interviews, an interview form was prepared so a consistent interview process could be maintained by all persons conducting the interviews. The interview form asked about general knowledge of the workings of the URA and about specific relocation experience each interviewed person had.

The interviews were conducted privately by telephone by Sean Ingvalson (FTA), Victor Otero (FTA), and Robert Merryman (O. R. Colan Associates).

Summary of the people interviewed:

HART Engaged in both acquisition and relocation work on the project	3 persons
Colliers – real estate consulting firm under contract to HART 2 people interviewed had previous experience working on the project through employment with a predecessor consultant	7 persons
W. D. Schock Company – consultant providing quality control for relocation work for HART staff	3 persons
Total interviewed	13 persons

Findings

Of the 13 persons interviewed, only 6 (46%) considered themselves to be competent or an expert in their understanding of URA requirements for the real estate acquisition and relocation work. This is a low percentage for a project with the complexity of the HART project. This lack of experience has persisted on the project from the beginning, and the agency has not established an effective project workforce. HART reports it is difficult to hire and retain both consultants and staff, which has contributed to a long-term problem.

Eight of the interviewees reported that their function on the project is “right of way support.” This number seems high given that there are more support personnel than production personnel; however, the project is in its later stage, and many of the active production personnel are no longer with the project.

The interviewers also asked the staff and consultants about their understanding of the HART real estate process. The HART process would involve, for example, how a settlement is approved or the materials to be provided to the legal staff to condemn a parcel. Only 1 person indicated they felt they had a clear understanding of the process. Two persons indicated no understanding of the process. The remaining ten persons felt they had some knowledge of the process.

Given the size of this project, one person with a clear understanding is insufficient to conduct an effective program. Errors and incorrect payments are likely to occur, and in this case they did.

In summary, it appears that ongoing turnover in HART staff and consultants has resulted in an overall insufficiently experienced staff. Some of the consultants employed on the project also lack a good or adequate understanding of the URA.

There has also been ongoing turnover in HART management, which has resulted in a lack of experience and understanding about the applicability of the URA requirements and the impact on real estate project delivery.

Recommended Action for Staff Capacity and Capability

HART should seek at least two highly qualified persons to act as “on-site” managers of the various aspects of the URA. Completed work should flow through these persons so that the quality of the work improves. These qualified persons would also provide staff training.

ATTACHMENTS

- A. FTA Relocation File Evaluation Forms – Residential17
- B. FTA Relocation File Evaluation Forms – Non-Residential20

Attachment A



Attachment A FTA Relocation File Evaluation-RESIDENTIAL 49 CFR Part 24 Requirements

Agency Parcel #:	FTA #:	Reviewer: Choose an item.
Name:		
Address:		
Occupancy: Homeowner <input type="checkbox"/> Tenant <input type="checkbox"/> Other <input type="checkbox"/>		
Initiation of Negotiations Date:	Click or tap to enter a date.	
Vacate Date:	Click or tap to enter a date.	Project: Honolulu Rapid Transit Project

Subpart A General

§24.5 Delivery/Receipt Documentation

General Information Notice/Agency Brochure: Choose an item.

Notice of Relocation Eligibility: Choose an item. Delivery Date: Click or tap to enter a date.

Ninety Day Vacate Notice (Assurance): Choose an item. Delivery Date: Click or tap to enter a date.

30-Day Notice: Choose an item. Delivery Date: Click or tap to enter a date.

§24.9 Recordkeeping and §24.10 Appeals

Adequate File Records Maintained: Choose an item.

Displacement Subject of Appeal: Choose an item. §24.10 Requirements Met: Choose an item.

Subpart B Real Property Acquisition

§24.102 Realty/Personal Property Report in File: Choose an item. Payment Duplication: (*finding*)

Subpart C General Relocation Requirements

§24.203 Notices Included in File

General Information Notice/Agency Brochure: Choose an item.

Notice of Relocation Eligibility: Choose an item.

Ninety Day Vacate Notice (Assurance): Choose an item. 90 Days Provided: Choose an item.

30-Day Notice: Choose an item.

§24.204 Availability of comparable replacement dwelling before displacement

Was a Comparable Dwelling Made Available 90 Days Prior to Required Vacate? Choose an item.

§24.205 Advisory Services

Advisory Services Provided: Choose an item.

§24.208 Legal Residency

Certificate of Legal Residency in File: Choose an item.

Subpart D Payments for Moving and Related Expenses

§24.301(b) and §24.301(g) Move Expenses (residential)

Commercial Move , or Self-Move , or Combination

Self-Move Method: Choose an item. Method Utilized Meets Requirements: Choose an item.

Subpart E Replacement Housing Payments

Occupancy Type: Choose an item.

Claim Type: Choose an item.

Housing of Last Resort: Choose an item. Supporting Documentation in File: Choose an item.

Low Income Determination (LID): Choose an item. LID Completed: Choose an item.

Decent, Safe, & Sanitary Inspection: Choose an item.

Subpart F Mobile Homes

§24.502 and §24.503 Status: Choose an item. Claim Type: Choose an item.

FTA Relocation File Evaluation-RESIDENTIAL
49 CFR Part 24 Requirements

RELOCATION CLAIMS/ADVANCE PAYMENTS/PAYMENTS FOR TENANT OWNED IMPROVEMENTS

Claim	Amount	Payee	Paid Date	Payment Receipt in File
1	\$	Choose an item.	Click or tap to enter a date.	Choose an item.
2	\$	Choose an item.	Click or tap to enter a date.	Choose an item.
3	\$	Choose an item.	Click or tap to enter a date.	Choose an item.
4	\$	Choose an item.	Click or tap to enter a date.	Choose an item.
5	\$	Choose an item.	Click or tap to enter a date.	Choose an item.

FINDINGS TABLE List all areas of non-compliance with URA requirements. Note: All missing items, responses in the negative, and 'NO' answers from Page 1 require a FINDING

#	Finding Category	Item	Curable*
1	Choose an item.	Choose an item.	Choose an item.
2	Choose an item.	Choose an item.	Choose an item.
3	Choose an item.	Choose an item.	Choose an item.
4	Choose an item.	Choose an item.	Choose an item.
5	Choose an item.	Choose an item.	Choose an item.
6	Choose an item.	Choose an item.	Choose an item.
7	Choose an item.	Choose an item.	Choose an item.
8	Choose an item.	Choose an item.	Choose an item.
9	Choose an item.	Choose an item.	Choose an item.
10	Choose an item.	Choose an item.	Choose an item.

*List Curable 'Findings' on the 'Curable Findings' Table. List Non-Curable 'Findings' on the Non-Curable Findings Evaluation' Table.

FTA Relocation File Evaluation-RESIDENTIAL
49 CFR Part 24 Requirements

§24.4(b) Corrective Action Requirements (Description of corrective action for items listed as curable on FINDINGS TABLE)

Curable Findings Table

Finding #	Cure
Choose an item.	

Non-Curable Findings Evaluation Table (Items listed as not-curable on FINDINGS TABLE)

Finding #	Evaluation
Choose an item.	Choose an item.
Choose an item.	Choose an item.
Choose an item.	Choose an item.
Choose an item.	Choose an item.
Choose an item.	Choose an item.

A	Total Payments Issued (Including Tenant Improvements)	\$
B	Documented Payment Eligibility Based on File Records	\$
C	Difference	\$

Overall Relocation Payment Evaluation: Choose an item.

Overall File Evaluation: Choose an item.

Date Reviewed: Click or tap to enter a date.

Reviewer Comments:

Attachment B



Attachment B
FTA Relocation File Evaluation-NONRESIDENTIAL
49 CFR Part 24 Requirements

Agency Parcel #:	FTA #:	Reviewer: Choose an item.
Name:		
Address:		
Type: Business <input type="checkbox"/> Nonprofit <input type="checkbox"/> Personal Property Only <input type="checkbox"/>		
Occupancy: Owner <input type="checkbox"/> Tenant <input type="checkbox"/>		
Initiation of Negotiations Date: Click or tap to enter a date.		
Vacate Date: Click or tap to enter a date.	Project: Honolulu Rapid Transit Project	

Subpart A General

§24.5 Delivery/Receipt Documentation

General Information Notice/Agency Brochure: Choose an item.

Notice of Relocation Eligibility: Choose an item. Delivery Date: Click or tap to enter a date.

Ninety Day Vacate Notice (Assurance): Choose an item. Delivery Date: Click or tap to enter a date.

30-Day Notice: Choose an item. Delivery Date: Click or tap to enter a date.

§24.9 Recordkeeping and §24.10 Appeals

Adequate File Records Maintained: Choose an item.

Displacement Subject of Appeal: Choose an item. §24.10 Requirements Met: Choose an item.

Subpart B Real Property Acquisition

§24.102 Realty/Personal Property Report in File: Choose an item.

§24.103 Compensation for Tenant Owned Improvements: Choose an item.

Basis for Compensation: Choose an item. Date Paid: Click or tap to enter a date.

Compensation for Tenant Owned Improvements Documented: Choose an item.

Likely Duplication of Compensation (requires finding if checked)

Subpart C General Relocation Requirements

§24.203 Notices Included in File

General Information Notice/Agency Brochure: Choose an item.

Notice of Relocation Eligibility: Choose an item.

Ninety Day Vacate Notice (Assurance): Choose an item. 90 Days Provided: Choose an item.

30-Day Notice: Choose an item.

§24.205 Advisory Services

Advisory Services Provided: Choose an item.

§24.208 Legal Residency

Certificate of Legal Residency in File: Choose an item.

Subpart D Payments for Moving and Related Expenses

§24.301(e) Personal Property Only Move (not eligible for reestablishment/search expenses)

§24.301(d), §24.301(g), and §24.303 Move Expenses (nonresidential)

Commercial Move , or Self-Move , or Combination **and** §24.304 Reestablishment Expenses

Self-Move Cost Basis: Choose an item.

Storage Expenses:

Search Expenses Paid: Choose an item.

§24.301(d) Personal Property Inventory: Choose an item. Date: Click or tap to enter a date.

OR

§24.302 Fixed Payment Entity: Choose an item. Eligible for Fixed Payment: Choose an item.

File Documentation Supports Amount of Fixed Payment: Choose an item.

FTA Relocation File Evaluation-NONRESIDENTIAL
49 CFR Part 24 Requirements

RELOCATION CLAIMS/ADVANCE PAYMENTS/PAYMENTS FOR TENANT OWNED IMPROVEMENTS

Claim	Amount	Payee	Paid Date	Payment Receipt in File
1	\$	Choose an item.	Click or tap to enter a date.	Choose an item.
2	\$	Choose an item.	Click or tap to enter a date.	Choose an item.
3	\$	Choose an item.	Click or tap to enter a date.	Choose an item.
4	\$	Choose an item.	Click or tap to enter a date.	Choose an item.
5	\$	Choose an item.	Click or tap to enter a date.	Choose an item.

FINDINGS TABLE List all areas of non-compliance with URA requirements. Note: All missing items, responses in the negative, and 'NO' answers from Page 1 require a FINDING

#	Finding Category	Item	Curable*
1	Choose an item.	Choose an item.	Choose an item.
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3	Choose an item.	Choose an item.	Choose an item.
4	Choose an item.	Choose an item.	Choose an item.
5	Choose an item.	Choose an item.	Choose an item.
6	Choose an item.	Choose an item.	Choose an item.
7	Choose an item.	Choose an item.	Choose an item.
8	Choose an item.	Choose an item.	Choose an item.
9	Choose an item.	Choose an item.	Choose an item.
10	Choose an item.	Choose an item.	Choose an item.
11	Choose an item.	Choose an item.	Choose an item.
12	Choose an item.	Choose an item.	Choose an item.

*List Curable 'Findings' on the 'Curable Findings' Table. List Non-Curable 'Findings' on the Non-Curable Findings Evaluation' Table.

FTA Relocation File Evaluation-NONRESIDENTIAL 49 CFR Part 24 Requirements

§24.4(b) Corrective Action Requirements (Description of corrective action for items listed as curable on FINDINGS TABLE)

Curable Findings Table

FTA Relocation File Evaluation-NONRESIDENTIAL
49 CFR Part 24 Requirements

Non-Curable Findings Evaluation Table (Items listed as not-curable on FINDINGS TABLE)

Finding #	Evaluation
Choose an item.	Choose an item.
Choose an item.	Choose an item.
Choose an item.	Choose an item.
Choose an item.	Choose an item.
Choose an item.	Choose an item.
Choose an item.	Choose an item.
Choose an item.	Choose an item.
Choose an item.	Choose an item.

A	Total Payments Issued (Including Tenant Improvements)	\$
B	Documented Payment Eligibility Based on File Records	\$
C	Difference	\$

Overall Relocation Payment Evaluation: Choose an item.

Overall File Evaluation: Choose an item.

Date Reviewed: Click or tap to enter a date.

Reviewer Comments:



U.S. Department
of Transportation

**Federal Transit
Administration**

Headquarters

1200 New Jersey Avenue, SE
Washington, DC 20590

SEP 23 2019

Mr. Andrew S. Robbins
Executive Director
and Chief Executive Officer, HART
City and County of Honolulu
1099 Alakea Street
Honolulu, HI 96813

Dear Mr. Robbins:

On February 12, 2019, the Federal Transit Administration (FTA) notified the Honolulu Authority for Rapid Transportation (HART) of its intention to complete a review of all of HART's case files associated with the Relocation Program for the Honolulu New Starts Rail project (the Project). The review is now complete, and a final report is enclosed.

FTA has determined that HART did not comply with the requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (URA). This determination is based on the enclosed report which, after an exhaustive review, substantiates HART's February 22, 2018, URA noncompliance disclosure. Findings indicate that persons displaced by the Project may not have been provided with all appropriate services and payments as required by the URA. Further, and consistent with HART's disclosure, FTA's review did identify areas of overpayments which were not properly documented and/or did not have basis for payment. FTA also assessed the qualifications of HART's real estate and consultant staff and FTA finds that HART does not have adequate staffing to support the Project's URA compliance needs.

FTA will not allow Federal participation in any past, current, or future costs associated with HART's Relocation Program. HART indicated in its initial disclosure that it has fully reimbursed FTA for all Federal funds related to its Relocation Program and intends to use only local funds for its Relocation Program moving forward. HART is directed to provide to FTA a full accounting of how it determined and reimbursed FTA for all Federal funds related to its Relocation Program. HART shall also certify that it will fully comply with all URA requirements on all current and future relocations regardless of funding source.

However, repayment does not absolve HART from compliance with the URA and substantial corrective action will be required to document that all displaced persons were or will be provided with all required URA relocation assistance benefits and services. Corrective action will involve locating and meeting with all persons displaced by the Project. Additionally, HART is required to provide qualified staff and/or consultants that have demonstrated experience with the practical application of URA relocation assistance requirements to accomplish corrective action.

FTA is therefore issuing the following corrective actions:

- HART is required to provide a full accounting of how HART determined and made reimbursement to FTA for all costs related to its relocation assistance program and certify that it will fully comply with all URA requirements for current and future relocations regardless of funding source.
- HART is required to utilize qualified personnel to organize, document, and properly assess all existing relocation assistance case files to accurately itemize and categorize eligibility for all services and payments made to each displaced person on the Project.
- HART is required to utilize qualified personnel to locate and personally meet with each person displaced by the Project to evaluate the level of service provided and benefits paid. FTA will provide a survey form to be completed by each displaced person.
- HART is required to utilize qualified personnel to analyze and reconcile completed surveys with existing file records to identify and resolve discrepancies between file records and the completed surveys and develop a corrective action plan for each displaced person. Approval of corrective action plans is subject to FTA review and approval.
- HART is required to notify each displaced person in writing of its assessment of the services and payments made and provide each with a copy of the approved individual corrective action plan.
- HART shall allow and consider relocation assistance appeals pursuant to URA requirements (*see* Federal public transportation law 49 CFR §24.10) for any item that the displaced person believes HART has failed to consider in its determination of the amount of eligible benefits and services or eligibility for benefits and services.
- HART is required to properly document all contacts and activities related to corrective action implementation to ensure compliance with the recordkeeping requirements of the URA (*see* Federal public transportation law 49 CFR §24.9).

HART should identify any factual misstatements in the report and submit a plan by October 31, 2019, that addresses how HART will undertake the corrective actions. HART should complete all corrective actions by September 30, 2020. HART's implementation of corrective actions will be overseen by Sean Ingvalson, FTA Realty Specialist, who will provide further detail and guidance on the implementation of the required corrective actions. If you have any questions please contact me at 202-366-4020.

Sincerely,



Bruce Robinson
Acting Associate Administrator
for Program Management

Enclosure